

## REMARKS

Claims 7-12 remain in this application. Claims 7 and 10 have been amended. No new matter has been introduced. The Examiner's indication of allowability of claims 9 and 12, if rewritten in independent form including the base claim, is acknowledged and appreciated.

The Applicant wishes to thank the Examiner for the Interview conducted on February 3, 2005. During the interview, the Examiner submitted that the recitation of the short/long messages in the claim preamble and the recitation of the destination point codes were interpreted as functional limitations, and were not specifically considered for purposes of claim scope. While the Applicant strenuously disagrees with this approach, the claim elements were re-written in the body of the claim to positively recite each element that has been argued previously. The Applicant submits that these elements were pre-existing in the prior versions of the claims, and that the amendments should not necessitate further consideration and/or search. If the Examiner chooses to maintain the current line of rejection, the Applicant kindly requests that the amendments be entered into the record for the purposes of appeal.

Claims 7-8 and 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Christie et al.* (US Patent 5,926,482) in view of *Duree et al.* (US Patent 5,940,393). Applicant respectfully traverses this rejection because the cited references, alone or in combination, do not disclose or suggest features of the first and second destination point codes, and the routing of short/long messages as described in claims 7 and 10.

The cited art, alone or in combination does not disclose a node in an MTP network for transferring short messages and long messages which are longer than that supported by current MTP level 2 and up to a maximum length supported by SSCOP, wherein the node comprises a first destination point code for connecting to a first link for supporting the short messages; and a second destination point code for connecting to a second link for supporting the long messages.

*Christie* discloses a system wherein an STP converts and routes signaling messages to avoid re-programming of switches (col. 2, lines 8-18; col. 12, lines 31-35). The conversions are based from the Originating Point Code (OPC) and Destination Point Code (DPC) of the signaling message (col. 7, lines 5-20). The Discriminator 312 analyzes the DPC to determine if the signaling point is the destination point. If not, the message gets directed to Routing 314; if it is the destination, the message is directed to Distribution 316 for internal processing (col. 7, lines

31-36). Point Code Conversion (PCC) 500 accepts the messages from level 2 and provides messages to Discrimination 312. PCC then translates the signaling message using internal tables to change designated DPC's, OPC's and Circuit Identification Codes (CIC's) (col. 8, lines 24-30). An example of its operation is shown in FIG. 7 and accompanying text (col. 10, line 29-col. 11, line 40).

It is axiomatic from the teaching of *Christie* that the PCC already receives messages from level 2 prior to translating messages (see col. 4, lines 38-43). In contrast, the present application claims the use of long messages that are longer than that supported by current MTP level 2. By definition, the PCC in *Christie* would never receive such long messages according to the disclosure, as they would be unsupported by the level 2 protocol. As a result, the conversion would not take place outside the level 2 processing.

Furthermore, the Office Action dated 10/04/04 asserted that broadband point code identifying functions were disclosed in *Christie* that supported longer message lengths than that supported by MTP level 2 (see office action, bottom of page 5- 1<sup>st</sup> paragraph page 6), however, nothing in the disclosure of *Christie* shows that this is the case. *Christie* mentions the use of ISUP, however, the mention of ISUP services is no reflection of the level 2 capabilities of the MTP network (the disclosure shows no support whatsoever for incorporating broadband nodes, such as ATM messaging or B-ISUP).

To this end, *Duree* was cited as disclosing a system and method for routing calls using ATM multiplexers and gateways, which have their own set protocols (col. 3, line 66 – col. 4, line 24). *Duree* teaches the routing of ATM signals, which also may transport N-ISUP messages that are subsequently encapsulated into ATM cells (col. 12, lines 20-43). However, the transport of N-ISUP messages in *Duree* rely on the same requirements as that in *Christie* – namely, that the N-ISUP messages must comply with the message lengths supported by MTP level 2 prior to transmission (col. 12, lines 29-37; col. 18, lines 52-53). In other words, *Duree* teaches an ATM system that may also pass narrow-band transmissions, however *Duree* does not distinguish between short (supported by MTP(2)) and long (unsupported by MTP(2)) messages, and further does not provide two different destination point codes in response to the type of message (i.e., short or long) being transmitted through a node. Accordingly, the combination of *Duree* and *Christie* does not provide messaging where one destination point code supports short messages, while the second destination point supports long messages in a node.

Moreover, the teaching of *Christie* and *Duree* makes it evident that the combination of these references is improper. As discussed above, *Christie* makes no provision for broadband signaling in the disclosure. However, *Duree*, relies exclusively on a broadband architecture (see col. 1, lines 11-45). There is no teaching, suggestion or motivation for one skilled in the art to modify the narrowband disclosure in *Christie* using the broadband architecture of *Duree* in the manner suggested by the Examiner.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper. *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986). (see MPEP 2142).

Further, the Federal Circuit has held that it is "impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." *In re Fritch*, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992). "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention" *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Moreover, the Federal Circuit has held that "obvious to try" is not the proper standard under 35 U.S.C. §103. *Ex parte Goldgaber*, 41 U.S.P.Q.2d 1172, 1177 (Fed. Cir. 1996). "An-obvious-to-try situation exists when a general disclosure may pique the scientist curiosity, such that further investigation might be done as a result of the disclosure, but the disclosure itself does not contain a sufficient teaching of how to obtain the desired result, or that the claim result would be obtained if certain directions were pursued." *In re Eli Lilly and Co.*, 14 U.S.P.Q.2d 1741, 1743 (Fed. Cir. 1990).

In light of the above, Applicant respectfully submits that, neither the *Christie et al.* nor *Duree et al.* references, either alone or in combination with each other, teach or suggest the invention as presently claimed. Accordingly, Applicant respectfully requests that a timely Notice of Allowance be issued at this time.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Peter Zura", is written over a horizontal line.

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